

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 LOIS WILLOW ALLEN,

11 Plaintiff,

12 v.

13 CHAPEL BY THE SEA, et al.,

14 Defendants.

CASE NO. C18-0026JLR

ORDER DISMISSING ACTION

15 **I. INTRODUCTION**

16 Before the court are (1) *pro se* Plaintiff Lois Willow Allen’s complaint against  
17 various defendants (Compl. (Dkt. # 4)), and (2) Magistrate Judge Brian A. Tsuchida’s  
18 order granting Ms. Allen *in forma pauperis* (“IFP”) status and recommending that the  
19 court review Ms. Allen’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) (IFP Order  
20 (Dkt. # 3) at 1); and (3) Ms. Allen’s motion to appoint counsel (MTA (Dkt. # 6)). Under  
21 28 U.S.C. § 1915(e), district courts have authority to review IFP complaints and must  
22 dismiss them if “at any time” it is determined that a complaint is frivolous, malicious,

1 fails to state a claim on which relief may be granted, or seeks monetary relief from a  
2 defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); *Lopez v. Smith*, 203  
3 F.3d 1122, 1126 n.7 (9th Cir. 2000) (clarifying that “section 1915(e) applies to all [IFP]  
4 complaints,” not just those filed by prisoners). As discussed below, Ms. Allen’s  
5 complaint falls within the category of pleadings that the court must dismiss.  
6 Additionally, the court concludes that Ms. Allen has not met her burden of establishing  
7 exceptional circumstances that warrant the appointment of counsel. Thus, the court  
8 denies her motion to appoint counsel.

## 9 **II. BACKGROUND**

10 Ms. Allen purports to bring suit against several entities, including: Defendants  
11 Chapel by the Sea, Justus Cafe, and the United States of America (collectively,  
12 “Defendants”). (*See generally* Dkt.; *see also* 1st Brief in Support (Dkt. # 1-2); 2d Brief  
13 in Support (Dkt. # 1-3); Plea (Dkt. # 5).) However, Ms. Allen expressly names only the  
14 United States as a defendant in her complaint. (*See* Compl.) On that basis, Ms. Allen  
15 alleges that the court has subject matter jurisdiction over all of her claims. (Civil Cover  
16 Sheet (Dkt. # 1-7).) Ms. Allen spends over 200 pages alleging a multitude of  
17 complaints against Chapel by the Sea, a church in Anchorage, Alaska, for purported  
18 violations of its 26 U.S.C. § 501(c)(3) tax-exempt status and “standards of other laws not  
19 followed.” (*See* 1st Brief in Support at 2; 2d Brief in Support); 26 U.S.C. § 501(c)(3). In  
20 addition, Ms. Allen claims that Justus Cafe, a cafe connected to the King County  
21 Superior Courthouse in Seattle, Washington, is “part of [a] nationwide attack on persons  
22 of color, persons of religious beliefs, and persons of female gender,” though she fails to

1 specify any discriminatory acts. (Plea at 1-11.) Finally, Ms. Allen appears to petition the  
2 court to take over the guardianship of Stewart Herron, who allegedly is under the care of  
3 a Guardian Ad Litem. (See Plea at 44-70.)

### 4 **III. ANALYSIS**

#### 5 **A. Section 1915 Review**

6 Section 1915(e)(2)(B) of Title 28 authorizes a district court to dismiss a claim  
7 filed IFP “at any time” if it determines: (1) the action is frivolous or malicious; (2) the  
8 action fails to state a claim; or (3) the action seeks relief from a defendant who is immune  
9 from such relief. See 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous when it  
10 presents an inarguable legal conclusion or fanciful factual allegations. See *Neitzke v.*  
11 *Williams*, 490 U.S. 319, 325 (1989). Although an IFP complaint may not be dismissed  
12 simply because the court finds the plaintiff’s allegations unlikely, a finding of factual  
13 frivolousness is appropriate when the facts alleged rise to the level of the irrational or the  
14 wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). An IFP complaint  
15 must also contain factual allegations “enough to raise a right to relief above the  
16 speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The court  
17 need not accept as true a legal conclusion presented as a factual allegation. *Ashcroft v.*  
18 *Iqbal*, 556 U.S. 662, 678 (2009). Although the pleading standard announced by Federal  
19 Rule of Civil Procedure 8 does not require “detailed factual allegations,” it demands more  
20 than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* (citing  
21 *Twombly*, 550 U.S. at 555); see Fed. R. Civ. P. 8(a). The court concludes that Ms.  
22

1 Allen's claims are frivolous and that she fails to state a claim on which relief may be  
2 granted.

3 Because Ms. Allen is a *pro se* plaintiff, the court must construe her pleadings  
4 liberally. *See McGuckin v. Smith*, 974 F.2d 1050, 1055 (9th Cir. 1992). The only legal  
5 claim Ms. Allen mentions—without explanation—in her complaint is “Criminal  
6 Trespassing.” (*See* Compl. at 6.) Conversely, Ms. Allen describes her causes of action  
7 on her civil cover sheet as “Invasion of Privacy, Slander, Stalking, Sabotage, unjust  
8 domineering, The Church did err, [and] the government is not fair,” also without any  
9 explanation. (Civil Cover Sheet.) And Ms. Allen's motion to appoint counsel says that  
10 she “seeks relief under federal statutes protecting civil rights.” (MTA at 1.) These  
11 allegations are not sufficiently supported by Ms. Allen's myriad and disparate supporting  
12 documents. Nor do Ms. Allen's 320 pages of pleadings support her discrimination  
13 accusations against Justus Cafe. Ms. Allen also fails to explain, among other things:  
14 how her disparate allegations against the unconnected Defendants are related such that  
15 the court should hear these claims together; the basis of this court's subject matter  
16 jurisdiction over the claims regarding Chapel by the Sea, Justus Cafe, or Mr. Herron;  
17 whether Ms. Allen has standing to challenge Chapel by the Sea's tax-exempt status; and  
18 why this court is the proper venue for the claims against a church located in Alaska. In  
19 short, Ms. Allen does not state a cognizable legal claim against any Defendant. (*See*  
20 Compl.; 1st Brief in Support; 2d Brief in Support; Plea.) The facts alleged do not rise  
21 above the level of the irrational or the wholly incredible, *Denton*, 504 U.S. at 33, or “raise  
22 a right to relief above the speculative level,” *Twombly*, 550 U.S. at 555. Therefore, the

1 court finds that Ms. Allen’s complaint must be dismissed because it is frivolous and fails  
2 to state a claim.

3 When a court dismisses a *pro se* plaintiff’s complaint, the court must give the  
4 plaintiff leave to amend unless it is absolutely clear that amendment could not cure the  
5 defects in the complaint. *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). “A  
6 court may dismiss as frivolous complaints reciting bare legal conclusions with no  
7 suggestion of supporting facts, or postulating events and circumstances of a wholly  
8 fanciful kind.” *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984) (quoting *Taylor*  
9 *v. Gibson*, 529 F.2d 709, 717 (5th Cir. 1976)). Ms. Allen’s complaint does not even  
10 recite bare legal conclusions: the complaint merely says, “Criminal Trespassing” without  
11 any supporting facts. (Compl. at 6.) For injuries, Ms. Allen only writes, “Multiple.” (*Id.*  
12 at 7.) And nothing in Ms. Allen’s voluminous pleadings supports her claim, let alone  
13 provides the court the ability to liberally construe a claim in her favor. On this basis, the  
14 court does not grant Ms. Allen leave to amend because it is “absolutely clear” that no  
15 amendment could cure the defects in Ms. Allen’s complaint.<sup>1</sup> *Lucas*, 66 F.3d at 248; *see*  
16 *Wilson v. Vannoy*, Civil No. 14-387-JJB-SCR, 2015 WL 500494, at \*1 (M.D. La. Feb. 4,  
17 2015) (dismissing IFP complaint pursuant to § 1915(e)(2)(B)(i) without leave to amend

18 //

19 //

---

20 <sup>1</sup> The court also notes that this is the third case Ms. Allen has filed in the Western District  
21 of Washington since September 25, 2017. The first case was dismissed for improper venue.  
22 *Allen v. Catholic Soc. Servs.*, No. C17-1451MJP (W.D. Wash. Oct. 19, 2017) (order dismissing  
action). The second case was dismissed because the complaint was frivolous and failed to state a  
claim on which relief may be granted. *Allen v. The Persons Who Access My Personal Neurons*,  
C17-1595JCC (W.D. Wash. Nov. 6, 2017) (order dismissing action).

1 “because there is no conceivable, non-frivolous . . . claim [plaintiff] could assert against  
2 the defendants consistent with the facts alleged in his complaint”).

3 **B. Motion to Appoint Counsel**

4 Ms. Allen requests that the court appoint counsel to assist her with this case.  
5 (MTA at 1.) This District has implemented a plan for court-appointed representation of  
6 civil rights litigants. The plan requires the court to assess a plaintiff’s case before  
7 forwarding it to the Pro Bono Screening Committee for further review and possible  
8 appointment of pro bono counsel. *See* General Order, August 1, 2010, Section 3(c) (In re  
9 Amended Plan for the Representation of Pro Se Litigants in Civil Rights Actions). In its  
10 initial assessment, the court evaluates both the merits of the case and the plaintiff’s  
11 financial eligibility. *Id.* Only in “exceptional circumstances,” after evaluating the  
12 “likelihood of success on the merits” and “the ability of the petitioner to articulate his  
13 claims *pro se* in light of the complexity of the legal issues involved,” may the court  
14 designate counsel. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). The  
15 plaintiff seeking counsel bears the burden of demonstrating these exceptional  
16 circumstances. *Brogdon v. City of Phoenix Police Dep’t*, No. CV-11-01389-PHX-  
17 RCB(MEA), 2013 WL 3155116, at \*1 (D. Ariz. June 19, 2013).

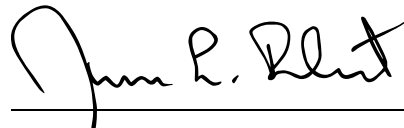
18 The court concludes that Ms. Allen’s submissions do not support referring her  
19 case to the Pro Bono Screening Committee for further review, nor does Ms. Allen  
20 establish the exceptional circumstances that warrant appointing counsel. Ms. Allen  
21 makes no argument as to the likelihood of success on the merits of her claims (*see* MTA),  
22 and after the court’s independent review, the court cannot say that her claims are likely to

1 succeed, *see supra* § III.A. Moreover, Ms. Allen makes no showing that this case is  
2 complex. (*See* MTA.) That Ms. Allen might find it “difficult to articulate h[er] claims  
3 *pro se*” is insufficient to demonstrate that her case involves complex legal issues. *See*  
4 *Wilborn*, 789 F.2d at 1331. Ms. Allen satisfies neither factor necessary to establish the  
5 exceptional circumstances that warrant appointment of counsel. Accordingly, the court  
6 denies Ms. Allen’s motion to appoint counsel.

7 **IV. CONCLUSION**

8 For the foregoing reasons, the court DISMISSES Ms. Allen’s complaint without  
9 prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). The court also DENIES Ms. Allen’s  
10 motion to appoint counsel (Dkt. # 6).

11 Dated this 19th day of January, 2018.

12   
13

14 JAMES L. ROBERT  
United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22